

7 MAY 1981

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Gentlemen:

We have considered your application for exemption from Federal income tax under the provisions of section 501(c)(4) of the Internal Revenue Code.

Information submitted shows that you were incorporated on [REDACTED] to provide, construct, equip, furnish, maintain, own and operate a private recreational club and to promote the health, safety and welfare of the residents of [REDACTED].

Your Articles of Incorporation state that membership is accorded to every person who is a record owner of any lot and membership cannot be separated from ownership.

Your By-Laws Provide that your Board of Directors, among other duties, can cause the common area to be maintained and cause the exterior of any dwelling to be maintained when such is deemed necessary and to levy a special assessment against such lot for the cost thereof.

Your Declaration of Covenants, Conditions and Restrictions entered into by [REDACTED] indicates that the Declarant desires to create a residential community with private parks, playgrounds, open spaces and other common facilities for the benefit of the community and desires to provide for the preservation of the values and amenities of said community.

Section 501(c) of the Code describes certain organizations exempt from Federal income tax under section 501(a) and reads, in part, as follows:

"(4) Civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, or local associations of employees, the membership of which is limited to the employees of a designated person or persons in a particular municipality, and the net earnings of which are devoted exclusively to charitable, educational or recreational purposes."

Section 1.501(c)(4)-1 of the regulations provides, in part, as follows:

"(a)(1) In general. A civic league or organization may be exempt as an organization described in section 501(c)(4) if -

- (i) It is not organized or operated for profit; and
- (ii) It is operated exclusively for the promotion of social welfare."

"(a)(2)(i) An organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements.\*\*\*

Revenue Ruling 74-99, 1974-1 Cumulative Bulletin 131, holds that in order for a homeowners' association to qualify for exemption under section 501(c)(4) of the Code, it must have the following characteristics:

1. The organization must serve a "community" which bears a reasonable, recognizable relationship to an area ordinarily identified as governmental;
2. It must not conduct activities directed to the exterior maintenance of private residences; and
3. The common areas or facilities must be for the use and enjoyment of the public, as distinguished from controlled use or access restricted to the members of the homeowners' association.

[REDACTED]

Revenue Ruling 69-280, 1969-1 Cumulative Bulletin 152, holds that a nonprofit organization formed to provide maintenance of exterior walls and roofs of homes of members who own houses in a development is not exempt as a social welfare organization under section 501(c)(4) of the Code.

Revenue Ruling 74-17, 1974-1 Cumulative Bulletin 130, holds that an organization formed by unit owners of a condominium to provide for the management, maintenance, and care of the common areas, with membership assessments paid by the unit owners does not qualify for exemption.

Revenue Ruling 80-63, 1980-1 Cumulative Bulletin 116, answers specific questions as to whether the conduct of certain activities will affect the exempt status under section 501(c)(4) of the Code.

Specifically, it states that, even though there is no precise definition of the term "community", an association may meet the community requirement if their common areas and facilities are for the use of the general public as distinguished from areas and facilities whose use is controlled and restricted to members of the association.

You are not organized for the promotion of social welfare and are not primarily engaged in promoting the common good of the people. Conversely, you are organized to promote the interests of residents of [REDACTED].

Since your common areas and facilities are not open to the general public and your By-Laws allow maintenance to be performed on lots and the exteriors of dwellings, you do not meet the requirements of Revenue Ruling 74-99.

Further, you do not satisfy the requirement of serving a community, as prescribed in Revenue Ruling 80-63, since your common areas and facilities are controlled and restricted for the use of your members only.

Based on the above, we have determined that you do not qualify for exemption from Federal income tax under section 501(c)(4) of the Code and are required to file income tax returns on Form 1120 or 1120-H.

(4)

[REDACTED] [REDACTED]

As a homeowners' association, you may qualify for treatment under section 528. In this letter we are not ruling on the question of whether you qualify for treatment under section 528. However, if you believe you qualify for such treatment, you should file Form 1120-H when due.

If you do not agree with these conclusions, you may, within 30 days from the date of this letter, file a written protest in accordance with the instructions set forth in the enclosed Publication 892.

If you agree with these conclusions or do not wish to file a written protest, please sign and return Form 6018 in the enclosed self-addressed envelope as soon as possible.

Sincerely,

[REDACTED]  
District Director

Enclosures:  
Publication 892  
Publication 588  
Form 6018  
Envelope